

RULES OF THE MEDICAL LICENSING BOARD OF INDIANA

TITLE 844 INDIANA ADMINISTRATIVE CODE

ARTICLE 4. MEDICAL DOCTORS; OSTEOPATHIC DOCTORS

Rule 1. General Provisions

844 IAC 4-1-1 Purpose

Sec. 1. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

Rule 2. Fees

844 IAC 4-2-1 Fees. *Repealed.*

Sec. 1. *(Repealed by the Medical Licensing Board of Indiana; filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)*

844 IAC 4-2-2 Board fees

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-1-1

Sec. 2. (a) Every applicant for licensure to practice as a medical doctor or osteopathic doctor shall pay to the medical licensing board of Indiana the following fees:

Examination	\$250
Endorsement-in	\$250
Endorsement-out	\$10
Renewal fee	\$200 per biennium
Duplicate license	\$10

(b) Every applicant for permits authorized by the medical licensing board of Indiana shall pay to the medical licensing board of Indiana the following fees:

Temporary medical permit, endorsement candidates, teaching permit, postgraduate training	\$100
Renewal fee for a temporary medical permit	\$50
Temporary medical permit (nonrenewable, limited scope)	\$100

(Medical Licensing Board of Indiana; 844 IAC 4-2-2, filed Feb 11, 2002, 4:32 p.m.: 25 IR 2246)

Rule 3. Definitions and Exclusions

844 IAC 4-3-1 Diagnose; diagnosis

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1

Sec. 1. It is not necessary that the examination and diagnosis of biopsies, x-rays, or materials produced by a patient's body or substances obtained or removed from a patient's body be made in the presence of the patient. Information supplied either directly or indirectly by the patient may be utilized by the physician in arriving at such a diagnosis. The physician who makes such an examination or diagnosis is required to have a license to practice medicine or osteopathic medicine, although the physician does not see the patient. *(Medical Licensing Board of Indiana; 844 IAC 4-3-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2846; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

844 IAC 4-3-2 Surgical operation

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-1-1.1

Sec. 2. "Surgical operation", as used in IC 25-22.5-1-1.1(a)(1)(C), includes, but is not limited to, the incising, cutting, or invading of human tissue by laser surgery. *(Medical Licensing Board of Indiana; 844 IAC 4-3-2; filed Oct 29, 1991, 3:00 p.m.: 15 IR 242; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731)*

Rule 4. Admission to Practice *(Repealed)*

(Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)

Rule 4.1. Admission to Practice

844 IAC 4-4.1-1 License by endorsement *(Repealed)*

Sec. 1. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-2 Temporary medical permits *(Repealed)*

Sec. 2. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-3 Examinations *(Repealed)*

Sec. 3. *(Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076)*

844 IAC 4-4.1-3.1 Examinations *(Repealed)*

Sec. 3.1. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-4 Unlimited licensure by FLEX examination *(Repealed)*

Sec. 4. *(Repealed by Medical Licensing Board of Indiana; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076)*

844 IAC 4-4.1-4.1 Unlimited licensure by examination *(Repealed)*

Sec. 4.1. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-5 Applications *(Repealed)*

Sec. 5. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-6 Examination results *(Repealed)*

Sec. 6. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-7 Burden of proof *(Repealed)*

Sec. 7. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-8 Screening of applications (Repealed)

Sec. 8. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-9 Approved medical schools (Repealed)

Sec. 9. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-10 Approved residency programs (Repealed)

Sec. 10. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

844 IAC 4-4.1-11 Notice of address change (Repealed)

Sec. 11. *(Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)*

Rule 4.5. Licensure to Practice

844 IAC 4-4.5-1 Available licenses and permits

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-2

Sec. 1. An applicant may apply for the following:

- (1) Unlimited license to practice medicine or osteopathic medicine by:
 - (A) examination; or
 - (B) endorsement.
- (2) A temporary medical permit for an applicant who is applying for unlimited licensure by endorsement.
- (3) A temporary medical permit for postgraduate training.
- (4) A temporary medical teaching permit.
- (5) A limited scope temporary medical permit for an applicant who holds an unrestricted license to practice in another state.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 28)

844 IAC 4-4.5-2 Licenses and permits issued for general practice only

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-2

Sec. 2. A medical license issued by Indiana is for the general practice of medicine. Regardless of the applicant's certification by a specialty board, neither a license nor a permit shall be issued unless the applicant has fulfilled the general licensure requirements of IC 25-22.5 and this article. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-2; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-3 Approved medical schools

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 3. (a) An approved school of medicine or school of osteopathic medicine is one located within the United States, its possessions, or Canada and is recognized by either:

- (1) the Liaison Committee on Medical Education, which is jointly sponsored by the American Medical Association (AMA) and the Association of American Medical Colleges (AAMC); or
- (2) the American Osteopathic Association (AOA) Bureau of Professional Education.

(b) In order to be approved by the board for the purpose of obtaining a license or permit, a school of medicine or school of osteopathic medicine located outside of the United States, its possessions, or Canada must maintain standards equivalent to those adopted by:

- (1) the Liaison Committee on Medical Education, Functions and Structure of a Medical School, Standards for Accreditation of Medical Education Programs Leading to the M.D. degree, 2001; or
- (2) the Bureau of Professional Education of the American Osteopathic Association, Accreditation of Colleges of Osteopathic Medicine, 2001.

(c) A copy of such standards shall be available for public inspection at the office of the Health Professions Bureau, 402 West Washington Street, Room W041, Indianapolis, Indiana 46204. Copies of such standards are available from the respective entity originally issuing the incorporated matter as follows:

- (1) The LCME Secretariat, American Medical Association, 515 North State Street, Chicago, Illinois 60610.
- (2) The Bureau of Professional Education of the American Osteopathic Association, 142 East Ontario Street, Chicago, Illinois 60611.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-3; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-4 Approved postgraduate (internship and residency) programs

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 4. An approved internship or residency program is one that was, at time the applicant was enrolled in the internship or residency program accepted by the:

- (1) Accreditation Council for Graduate Medical Education;
- (2) Executive Committee of the Council on Postdoctoral Training of the American Osteopathic Association; or
- (3) Royal College of Physicians and Surgeons of Canada.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-4; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-5 Authentic documents required

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 5. All documents required by law to be submitted to the board shall be originals or certified copies thereof. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-5; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-6 Burden of proof

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 6. Every applicant for licensure or temporary medical permit shall demonstrate that the applicant meets all of the qualifications required by Indiana statutes and by the rules of the board. In any proceeding before the board the burden of proof shall be on the applicant. *(Medical Licensing Board of Indiana; 844 IAC 4-4.5-6; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)*

844 IAC 4-4.5-7 Application for a license

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-6-2.1

Sec. 7. (a) A person seeking licensure to practice medicine or osteopathic medicine shall file an application on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a license shall provide the following:

(1) Where the name on any document differs from the applicant's name, a notarized or certified copy of a marriage certificate or legal proof of name change must be submitted with the application.

(2) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing of the application.

(3) A certified copy of the original medical school or osteopathic medical school diploma. The following are requirements in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(4) If the applicant is the graduate of a school of medicine or osteopathic medicine in the United States, its possessions, or Canada, an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred must be submitted. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript.

(5) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit an original transcript of the applicant's medical education, including the degree conferred and the date the degree was conferred. If the original transcript is in a language other than English, the applicant must include a certified translation of the transcript. If an original transcript is not available, the applicant must submit the following:

(A) A notarized or certified copy of the original medical school or osteopathic medical school transcript, which must include the degree conferred and the date the degree was conferred.

(B) An affidavit fully and clearly stating the reasons that an original transcript is not available.

(6) If the applicant has been convicted of a criminal offense (excluding minor traffic violations), the applicant shall submit a notarized statement detailing all criminal offenses (excluding minor traffic violations) for which the applicant has been convicted. This notarized statement must include the following:

(A) The offense of which the applicant was convicted.

(B) The court in which the applicant was convicted.

(C) The cause number under which the applicant was convicted.

(D) The penalty imposed by the court.

(7) If the applicant is a graduate of a school of medicine or osteopathic medicine outside the United States, its possessions, or Canada, the applicant must submit a notarized copy of a certificate issued to the applicant by the Educational Commission on Foreign Medical Graduates.

(8) All applicants who are now, or have been, licensed to practice any health profession in another state must submit verification of license status. This information must be sent by the state that issued the license directly to the Indiana board.

(9) The applicant shall submit a self-query form completed by the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

(10) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(Medical Licensing Board of Indiana: 844 IAC 4-4.5-7; filed Sep 3, 2002, 3:38 p.m.: 26 IR 29)

844 IAC 4-4.5-8 Licensure by examination

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 8. An applicant for licensure by examination must:

(1) Pass Steps I, II, and III of the United States Medical Licensing Examination or pass Steps I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination.

(2) Meet the requirements of IC 25-22.5.

(3) Meet the requirements of this article.

(Medical Licensing Board of Indiana: 844 IAC 4-4.5-8; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)

844 IAC 4-4.5-9 Licensure by endorsement

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3; IC 25-22.5-5-2; IC 25-22.5-6

Sec. 9. (a) In addition to complying with section 7 of this rule, an applicant for licensure by endorsement shall submit proof that the applicant satisfactorily completed the written examination provided by the:

(1) National Board of Medical Examiners (NBME);

(2) National Board of Osteopathic Medical Examiners (NBOME); or

(3) Federation of State Medical Boards of the United States, Inc. (FSMB).

(b) Acceptable examinations provided by an entity under subsection

(a) are as follows:

(1) NBME.

(2) NBOME.

(3) Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).

(4) Federation of State Medical Boards of the United States (FLEX).

(5) United States Medical Licensing Examination (USMLE).

(c) Endorsement from states requiring the NBME, NBOME, or FLEX will be honored if the examination was taken and passed in a manner that was, in the opinion of the board, equivalent in every respect to Indiana's examination requirements at the time it was taken.

(d) Endorsement from states requiring the USMLE or COMLEX-USA for licensure will be honored if the examination requirements of the other state are equivalent to the requirements of section 12 or 13 of this rule.

(e) Licensure by endorsement may be granted to an applicant who obtained a license in another state before the FLEX, NBME, USMLE, or COMLEX-USA were used in that state if the applicant:

- (1) took an examination equivalent in every respect to Indiana's examination requirements at the time it was taken in another state; and
- (2) meets all of the other requirements of the board under IC 25-22.5 and this article.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-9; filed Sep 3, 2002, 3:38 p.m.: 26 IR 30)

844 IAC 4-4.5-10 Requirements for taking the United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 10. (a) In order to qualify to take Step III of the United States Medical Licensing Examination (USMLE), a graduate of a medical school in the United States, its possessions, or Canada must submit proof of the following:

- (1) Completion of the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine and graduation from a medical school or osteopathic medical school approved by the board.
- (2) Passage of both Steps I and II of the USMLE.
- (3) Completion, or expected completion within six (6) months, of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the USMLE, a graduate of a medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

- (1) Passage of both Steps I and II of the USMLE.
- (2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.
- (3) Certification by the Educational Commission on Foreign Medical Graduates.
- (4) Passing such other examinations as may be required by the board.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-10; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)

844 IAC 4-4.5-11 Requirements for taking the Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 11. (a) In order to qualify to take Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA), a graduate of an osteopathic medical school in the United States, its possessions, or Canada must submit proof of the following:

- (1) Completion of the academic requirements for the degree of doctor of osteopathic medicine and graduation from an osteopathic medical school approved by the board.
- (2) Passage of both Steps I and II of the COMLEX-USA.
- (3) Completion of one (1) year of postgraduate training in a hospital or institution in the United States, its possessions, or Canada that meets

the requirements for an approved internship or residency under this rule.

(b) In order to qualify to take Step III of the COMLEX-USA, a graduate of an osteopathic medical school outside the United States, its possessions, or Canada, including citizens of the United States, must submit proof of the following:

- (1) Passage of both Steps I and II of the United States Medical Licensing Examination.
 - (2) Completion of a minimum of two (2) years of postgraduate training in a hospital or institution in the United States or Canada that meets the requirements for an approved internship or residency under this rule.
 - (3) Certification by the Educational Commission on Foreign Medical Graduates.
 - (4) Passing such other examinations as may be required by the board.
- (Medical Licensing Board of Indiana; 844 IAC 4-4.5-11; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)*

844 IAC 4-4.5-12 Passing requirements for United States Medical Licensing Examination Step III

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 12. The following are the examination passing requirements for licensure:

- (1) A score of seventy-five (75) is the minimum passing score for Step III of the United States Medical Licensing Examination (USMLE).
- (2) An applicant may have a maximum of five (5) attempts to pass each step of the USMLE. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.
- (3) All steps of the USMLE must be taken and successfully passed within a seven (7) year time period. This seven (7) year period begins when the applicant first takes a step, either Step I or Step II. In counting the number of attempts regarding USMLE steps, previous attempts on the National Board Medical Examination and the examination of the Federation of State Medical Boards of the United States are included.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-12; filed Sep 3, 2002, 3:38 p.m.: 26 IR 31)

844 IAC 4-4.5-13 Passing requirements for Comprehensive Osteopathic Medical Licensing Examination

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-3-2

Sec. 13. The following are the examination passing requirements for licensure:

- (1) A score of three hundred fifty (350) is the minimum passing score for Step III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA).
- (2) An applicant may have a maximum of five (5) attempts to pass each step of the COMLEX-USA. Therefore, upon the fifth seating of each step of the exam, the applicant must obtain a passing score.
- (3) All steps of the COMLEX-USA must be taken and passed in sequential order within a seven (7) year time period. This seven (7) year period begins when the applicant first takes Step I. In counting the number of attempts regarding COMLEX-USA steps, previous attempts on the National Board Osteopathic Medical Examination are included.

(Medical Licensing Board of Indiana; 844 IAC 4-4.5-13; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)

844 IAC 4-4.5-14 Temporary permits for endorsement applicants

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-5-2

Sec. 14. (a) An applicant seeking a temporary permit to practice medicine or osteopathic medicine based upon licensure in another state of the United States, its possessions, or Canada shall file an application for licensure and a temporary permit on a form supplied by the board and submit the fees required by 844 IAC 4-2-2.

(b) The applicant for a temporary medical permit shall submit the following:

- (1) One (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application.
- (2) Proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state of the United States, its possessions, or Canada.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in effect for a period not to exceed ninety (90) days.

(e) If the application for licensure under IC 25-22.5-5-2 is denied, the temporary permit becomes null and void immediately upon denial.

(f) If an extension of the temporary permit past ninety (90) days is required due to an incomplete license application file, the request for an extension of time must be submitted in writing (via letter, facsimile transmission, or electronic mail transmission) to the director of the board and received prior to the expiration date of the temporary medical permit. (Medical Licensing Board of Indiana; 844 IAC 4-4.5-14; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)

844 IAC 4-4.5-15 Temporary medical permits for postgraduate training

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 15. (a) A temporary medical permit issued for postgraduate medical education or training shall include internships, transitional programs, residency training, or other postgraduate medical education in a medical institution or hospital located in Indiana that meets the requirements of section 4 of this rule. A temporary medical permit for postgraduate training may be issued to a person who has:

- (1) completed the academic requirements for the degree of doctor of medicine or doctor of osteopathic medicine from a medical school or osteopathic medical school approved by the board;
- (2) submitted an application for a temporary medical permit;
- (3) submitted one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application;
- (4) paid the nonrefundable fee specified in 844 IAC 4-2-2; and
- (5) provided documented evidence of acceptance into a postgraduate medical education or training program located in Indiana which meets the requirements of section 4 of this rule.

(b) Graduates of a school outside of the United States, its possessions, or Canada must submit proof of certification by the Educational Commission on Foreign Medical Graduates.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) A temporary medical permit issued under this section shall remain in force and effect for a period of one (1) year. A temporary medical permit issued under this section may be renewed for an additional one (1) year period, provided that the applicant submits an application and pays the nonrefundable fee. Temporary medical permits issued under this section to persons having passed Steps I and II of the United States Medical Licensing Examination (USMLE) or Comprehensive Osteopathic Medical Licensing Examination United States Medical Licensing Examination (COMLEX-USA), and who have failed Step III of the USMLE or the COMLEX-USA may be renewed and reissued to the applicant, at the discretion of the board.

(e) After seven (7) years expires from the date when the applicant first took a step of the USMLE or the COMLEX-USA, the temporary permit becomes invalid without further action of the board and cannot be renewed.

(f) A temporary medical permit issued under this section shall limit the applicant's practice of medicine or osteopathic medicine to the postgraduate medical education or training program in a medical education institution or hospital in Indiana approved by the board in which the applicant is employed, assigned, or enrolled, which limitation shall be stated on the face of the temporary medical permit.

(g) If training will occur in more than one (1) facility, the applicant must submit with the application for a temporary medical permit identifying information for each facility in which training will occur.

(h) A person issued a temporary medical permit under this section shall not accept, receive, or otherwise be employed or engaged in any employment as a physician unless approved by, or otherwise made a part or adjunct of, the applicant's postgraduate medical education or training program. (Medical Licensing Board of Indiana; 844 IAC 4-4.5-15; filed Sep 3, 2002, 3:38 p.m.: 26 IR 32)

844 IAC 4-4.5-16 Temporary medical permits for teaching in an accredited medical school

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 16. (a) A medical educational institution located in Indiana may apply for a temporary medical permit for teaching for a practitioner in the active practice of medicine outside of Indiana or the United States, but who is not licensed in Indiana, to teach medicine in the institution. The institution and the practitioner shall file an application, which shall include the following:

- (1) Documentation certifying the person's professional qualifications.
- (2) The term of the teaching appointment.
- (3) The medical subjects to be taught.
- (4) One (1) recent passport-type photograph of the person, taken within eight (8) weeks prior to filing the application.
- (5) The nonrefundable fee specified in 844 IAC 4-2-2.

(b) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(c) A temporary medical teaching permit issued under this section shall authorize the practitioner to teach medicine in the institution for a stated period not to exceed one (1) year.

(d) The temporary medical teaching permit must be kept in the possession of the institution and surrendered by it to the board for cancellation within thirty (30) days after the practitioner has ceased teaching in the institution.

(e) The permit authorizes the practitioner to practice in the institution only and, in the course of teaching, to practice those medical or osteopathic medical acts as are usually and customarily performed by a physician teaching in a medical educational institution, but does not authorize the practitioner to practice medicine or osteopathic medicine otherwise. (*Medical Licensing Board of Indiana; 844 IAC 4-4.5-16; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33*)

844 IAC 4-4.5-17 Limited scope temporary medical permits

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 17. (a) A person not currently licensed to practice medicine in Indiana, yet licensed to practice medicine or osteopathic medicine by any board or licensing agency of any state or jurisdiction may make application for a limited scope temporary medical permit that, if issued under this section, shall remain valid for a nonrenewable period not to exceed thirty (30) days.

(b) A person seeking a limited scope temporary medical permit under this section shall do the following:

(1) Complete an application form supplied by the board, specifying the following:

(A) The reasons for seeking a temporary medical permit.

(B) The location or locations where the applicant will provide medical services.

(C) The type, extent, and specialization of medical services that the applicant intends to, or may, provide.

(D) The activity, organization, function, or event with regard to which the applicant may provide medical services.

(2) The applicant's residence and office addresses and phone numbers.

(3) Pay to the board the nonrefundable fee specified by 844 IAC 4-2-2, at the time the application for temporary medical permit is filed.

(4) Submit one (1) recent passport-type photograph of the applicant, taken within eight (8) weeks prior to filing the application, simultaneously with filing the application for a temporary medical permit.

(5) Submit proof of holding a current and valid unrestricted license to practice medicine or osteopathic medicine in another state or jurisdiction.

(6) Submit a certified copy of the original medical school or osteopathic medical school diploma. The following requirements apply in the event that such diploma has been lost or destroyed:

(A) The applicant shall submit, in lieu thereof, a statement under the signature and seal of the dean of the medical school or osteopathic medical school or college from which the applicant graduated, stating that the applicant has satisfactorily completed the prescribed

course of study, the actual degree conferred, and the date of graduation.

(B) The applicant shall submit an affidavit fully and clearly stating the circumstances under which his or her diploma was lost or destroyed.

(C) In exceptional circumstances, the board may accept, in lieu of a diploma or certified copy thereof, other types of evidence, which establish that the applicant received a medical school or osteopathic medical school or college diploma and completed all academic requirements relating thereto.

(c) All information on the application shall be submitted under oath or affirmation, subject to the penalties for perjury.

(d) Temporary medical permits issued under this section shall be limited to a specific activity, function, series of events, or purpose, and to a specific geographical area within the state, which limitations shall be stated on the temporary medical permit. (*Medical Licensing Board of Indiana; 844 IAC 4-4.5-17; filed Sep 3, 2002, 3:38 p.m.: 26 IR 33*)

844 IAC 4-4.5-18 Temporary medical permits; discipline

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-3-1; IC 25-22.5-4-1; IC 25-22.5-5-3

Sec. 18. A temporary medical permit issued under this rule may be sanctioned for failure to comply with, or otherwise satisfy, the provisions of IC 25-22.5 or IC 25-1-9. (*Medical Licensing Board of Indiana; 844 IAC 4-4.5-18; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34*)

844 IAC 4-4.5-19 Notice of address change

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 19. (a) Every person issued a permit or license shall inform the board of the following in writing by mail, facsimile transmission, or electronic mail transmission:

(1) Each address where he or she is practicing medicine or osteopathic medicine within twenty (20) days after commencing such practice.

(2) All changes of address, including additional practice locations and residential addresses, or removals from such addresses within twenty (20) days of each such occurrence.

(b) Where the practitioner has more than one (1) address, the practitioner must notify the board which of the addresses is the practitioner's primary mailing address.

(c) A practitioner's failure to receive notification of licensure of permit renewal due to a failure to notify the board of a change of address shall not constitute an error on the part of the board nor shall it exonerate or otherwise excuse the practitioner from renewing such license or permit as required by law. (*Medical Licensing Board of Indiana; 844 IAC 4-4.5-19; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34*)

Rule 5. Preceptorships

844 IAC 4-5-1 Examination of foreign medical graduates

Sec. 1. (*Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34*)

**844 IAC 4-5-2 Licensure requirements; foreign medical graduates
(Repealed)**

Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed May 3, 1985, 10:44 am: 8 IR 1159)

Rule 6. Renewal of Physicians' Licenses

844 IAC 4-6-1 Mandatory renewal; time

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 1. Every physician holding a license issued by the medical licensing board of Indiana shall renew such license with the medical licensing board of Indiana biennially. (*Medical Licensing Board of Indiana; 844 IAC 4-6-1; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed May 13, 1987, 2:15 p.m.: 10 IR 2300; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-2 Mandatory renewal; notice

Sec. 3. Applications for all renewals must be made under oath or affirmation. (*Medical Licensing Board of Indiana; 844 IAC 4-6-3; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2074; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-4 Mandatory renewal; fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-8-2; IC 25-22.5-7

Sec. 4. Each licensee shall submit a fee as determined by the medical licensing board of Indiana for each year or fraction thereof, in the form as provided under IC 25-1-8-2(d) payable to the order of the health professions bureau. (*Medical Licensing Board of Indiana; 844 IAC 4-6-4; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-5 Delinquent renewal

Sec. 1. (Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)

Authority: IC 25-1-8-2; IC 25-22.5-2-7

Affected: IC 25-22.5-7-1

Sec. 5. In the event any licensee fails to submit his or her application for license renewal on or before September 1 of every other year, the licensee shall be required to pay a penalty fee in the amount of two hundred dollars (\$200), in addition to the regular renewal fee. (*Medical Licensing Board of Indiana; 844 IAC 4-6-5; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1522; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075*)

844 IAC 4-6-6 Mandatory renewal; failure to register

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 1. (Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)

844 IAC 4-6-2.1 Mandatory renewal; notice

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 2.1. (a) On or before sixty (60) days prior to June 30 of odd-numbered years, the board, or its duly authorized agent, shall issue a notice of expiration to each holder of a license that the holder is required to renew the holder's license.

(b) This notice will be sent to the address of record. If the practitioner has moved since the last renewal and has not notified the board of the new address, the board is not responsible for the untimely renewal of said license or its subsequent denial. (*Medical Licensing Board of Indiana; 844 IAC 4-6-2.1; filed Sep 3, 2002, 3:38 p.m.: 26 IR 34*)

844 IAC 4-6-3 Mandatory renewal; oath

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 6. Upon the failure of any licensee to renew their license with the medical licensing board of Indiana by September 1 of each biennium, the medical licensing board of Indiana shall forthwith enter an order suspending the physician's license to practice medicine in the state of Indiana. Such order shall become effective ten (10) days from the entry thereof. A copy, thereof, shall be served upon the licensee by certified mail at the last address provided by the licensee to the medical licensing board of Indiana. (*Medical Licensing Board of Indiana; 844 IAC 4-6-6; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-7 Practice after suspension

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 7. No physician shall engage in the practice of medicine in Indiana after the effective date of an order suspending the physician's license to practice. (*Medical Licensing Board of Indiana; 844 IAC 4-6-7; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2849; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

**844 IAC 4-6-8 Reinstatement after delinquent renewal of license
(Repealed)**

Sec. 8. (Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34)

844 IAC 4-6-9 Inactive status

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 9. Any physician who has retired from practice and wants to retain his or her license may do so for half of the usual registration fee as given in 844 IAC 4-2-1, provided that he or she does not maintain an office for the practice of medicine and does not charge for any medical services that he or she might render. A physician whose license is inactive may submit a written request to the medical licensing board of

Indiana to reactivate his or her license by paying the full renewal fee. (*Medical Licensing Board of Indiana; 844 IAC 4-6-9; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2075; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

844 IAC 4-6-10 Probation, suspension, or revocation

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5

Sec. 10. The willful performance of an act likely to deceive or harm the public shall include, but not be limited to, the following acts:

- (1) Aiding or abetting a person to practice medicine without a license.
- (2) Presigning prescriptions.
- (3) Prescribing or administering a drug for other than generally accepted therapeutic purposes.
- (4) Negligence in the practice of medicine.
- (5) False, deceptive, or misleading advertising.
- (6) Fraudulent practice of billing a patient or third party payer for services not rendered.

(*Medical Licensing Board of Indiana; 844 IAC 4-6-10; filed Nov 5, 1981, 12:50 p.m.: 4 IR 2850; filed Apr 26, 1994, 5:00 p.m.: 17 IR 2076; readopted and extended filed Dec 10, 2001, 3:47 p.m.: 25 IR 1732*)

Rule 7. SPEX Examination

844 IAC 4-7-1 "SPEX" defined

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 1. (a) "SPEX" refers to the special purpose examination.

(b) SPEX is an objective and standardized cognitive examination designed to assist the medical licensing board of Indiana in the assessment of general, undifferentiated medical practice by physicians or osteopathic physicians who hold or have held a valid license in a United States or Canadian jurisdiction. (*Medical Licensing Board of Indiana; 844 IAC 4-7-1; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731*)

844 IAC 4-7-2 Purpose of SPEX

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 2. SPEX is offered by the medical licensing board of Indiana for reexamination of selected physicians, designated by the medical licensing board of Indiana, who may need to demonstrate to the medical licensing board of Indiana current medical knowledge due to, but not limited to, the following:

- (1) Physicians or osteopathic physicians seeking licensure reinstatement or reactivation under IC 25-1-9-11, IC 25-22.5-6-1(a), and IC 25-22.5-7-1(c), after some period of professional inactivity.
- (2) Applicants who are some years beyond initial examination and either are applicants by endorsement or are applicants who have not previously been licensed in Indiana.

(*Medical Licensing Board of Indiana; 844 IAC 4-7-2; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731*)

844 IAC 4-7-3 Requirements to take SPEX

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 3. An applicant wishing to take the SPEX examination must:

- (1) complete an application as prescribed by the medical licensing board of Indiana;
- (2) pay the applicant's cost of purchasing the examination payable to the examination service; and
- (3) submit an application to the Federation of State Medical Boards at least forty-two (42) days prior to the administration date of the examination.

(*Medical Licensing Board of Indiana; 844 IAC 4-7-3; filed May 1, 1995, 10:45 a.m.: 18 IR 2258; readopted and extended filed Dec 10, 2001, 3:48 p.m.: 25 IR 1731*)

844 IAC 4-7-4 SPEX passing score

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9-11; IC 25-22.5-3-1; IC 25-22.5-6-1; IC 25-22.5-7-1

Sec. 4. (a) A score of seventy-five (75) is the minimum passing score on the SPEX.

(b) SPEX scores will be reported directly to the medical licensing board of Indiana. The medical licensing board of Indiana will notify all applicants of their test scores. (*Medical Licensing Board of Indiana; 844 IAC 4-7-4; filed May 1, 1995, 10:45 a.m.: 18 IR 2258*)

844 IAC 4-7-5 Examination dates

Sec. 5. (*Repealed by the Medical Licensing Board of Indiana; filed September 3, 2002, 3:38 p.m.: 26 IR 34*)

ARTICLE 5. STANDARDS OF PROFESSIONAL CONDUCT AND COMPETENT PRACTICE OF MEDICINE

Rule 1. General Provisions

844 IAC 5-1-1 Definitions

Authority: IC 25-22.5-2-7

Affected: IC 25-10; IC 25-13; IC 25-14; IC 25-20; IC 25-22.5-6-2.1; IC 25-23; IC 25-24; IC 25-26; IC 25-27; IC 25-29; IC 25-33; IC 25-35.6; IC 35-48-1; IC 35-48-2

Sec. 1. For purposes of the standards of professional conduct and competent practice of medicine, the following definitions apply: (a) "Professional incompetence" may include, but is not limited to, a pattern or course of repeated conduct by a practitioner demonstrating a failure to exercise such reasonable care and diligence as is ordinarily exercised by practitioners in the same or similar circumstances in the same or similar locality.

(b) "Practitioner" means a person who holds an unlimited license to practice medicine or osteopathic medicine in Indiana or a limited license or permit as may be issued by the board.

(c) "Specific professional health care provider" means any person who holds a specific license to practice in an area of health care in Indiana, including, but not limited to, the following persons:

- (1) any chiropractor licensed under IC 25-10;
- (2) any dental hygienist licensed under IC 25-13;

- (3) any dentist licensed under IC 25-14;
- (4) any hearing aid dealer licensed under IC 25-20;
- (5) any nurse licensed under IC 25-23;
- (6) any optometrist licensed under IC 25-24;
- (7) any pharmacist licensed under IC 25-26;
- (8) any physical therapist licensed under IC 25-27;
- (9) any podiatrist licensed under IC 25-29;
- (10) any psychologist licensed under IC 25-33;
- (11) any speech pathologist or audiologist licensed under IC 25-35.6.

(d) For purposes of clarifying the terminology used in IC 25-22.5-6-2.1(b)(7), and for purposes of the standards of professional conduct and competent practice of medicine, the following definitions apply:

- (1) "Addict" means a person who is physiologically and/or psychologically dependent upon a drug which is classified as a narcotic, controlled substance or dangerous drug.
- (2) "Habitue" means a person who is physiologically and/or psychologically dependent upon any narcotic, drug classified as a narcotic, dangerous drug or controlled substance under Indiana law; or a person who consumes on a regular basis, and without any medically justifiable purpose, a narcotic drug classified as a narcotic, dangerous drug or controlled substance under Indiana law, whether or not such person has developed a physiological or psychological dependence upon such substance.
- (3) "Classified as a narcotic" means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statutes.
- (4) "Dangerous drug" means any substance which is designated as a controlled substance under IC 35-48-1, or IC 35-48-2, or so classified in any subsequent amendment or revision of said statute.

(Medical Licensing Board of Indiana; 844 IAC 5-1-1; filed Apr 12, 1984, 8:28 am; 7 IR 1522; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-1-2 Standards of professional conduct. Repealed

Sec. 2. (Repealed by Medical Licensing Board of Indiana; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-1-3 Disciplinary action

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-2-7

Sec. 3. Failure to comply with section 1 of this rule and 844 IAC 5-2 may result in disciplinary proceedings against the offending practitioners. Further, all practitioners licensed in Indiana shall be responsible for having knowledge of the standards of conduct and practice established by statute and regulation pursuant to IC 25-22.5-2-7. *(Medical Licensing Board of Indiana; 844 IAC 5-1-3; filed Apr 12, 1984, 8:28 a.m.: 7 IR 1526; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

Rule 2. Standards of Professional Conduct

844 IAC 5-2-1 Applicability

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 1. A practitioner in the conduct of his/her practice of medicine or osteopathic medicine shall abide by, and comply with, the standards of professional conduct in this rule. *(Medical Licensing Board of Indiana; 844 IAC 5-2-1; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-2 Confidentiality

Authority: IC 25-22.5-2-7

Affected: IC 16-4-8-1; IC 25-1-9; IC 25-22.5-1

Sec. 2. A practitioner shall maintain the confidentiality of all knowledge and information regarding a patient, including, but not limited to, the patient's diagnosis, treatment, and prognosis, and of all records relating thereto, about which the practitioner may learn or otherwise be informed during the course of, or as a result of, the patient-practitioner relationship. Information about a patient shall be disclosed by a practitioner when required by law, including, but not limited to, the requirements of IC 34-4-12.6-1 *[IC 34-4 was repealed by P.L.1-1998, SECTION 221, effective July 1, 1998.]* and of IC 16-4-8-1, and any amendments thereto, or when authorized by the patient or those responsible for the patient's care. *(Medical Licensing Board of Indiana; 844 IAC 5-2-2; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-3 Information to patient

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 3. A practitioner shall give a truthful, candid, and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where a practitioner reasonably determines that the information is or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where a practitioner reasonably determines that the information is or would be detrimental to the physical or mental health of those persons responsible for the patient's care. *(Medical Licensing Board of Indiana; 844 IAC 5-2-3; filed Nov 30, 1990, 4:15 p.m.: 14 IR 750; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-4 Case withdrawal

Authority: IC 25-22.5-2-7

Affected: IC 16-4-8; IC 25-1-9; IC 25-22.5-1

Sec. 4. (a) The practitioner shall give reasonable written notice to a patient or to those responsible for the patient's care when the practitioner withdraws from a case so that another practitioner may be employed by the patient or by those responsible for the patient's care. A practitioner shall not abandon a patient.

(b) A practitioner who withdraws from a case, except in emergency circumstances, shall, upon written request and in conformity with the provisions of IC 16-4-8-1 through IC 16-4-8-11 and of any subsequent amendment or revision thereof, make available to his/her patient or to those responsible for the patient's care, and to any other practitioner or specific professional health care provider employed by the patient, or by those responsible for the patient's care, all records, test results, histories, x-rays, radiographic studies, diagnoses, files, and information relating to said patient which are in the practitioner's custody, possession, or control, or copies of such documents hereinbefore described. *(Medical Licensing Board of Indiana; 844 IAC 5-2-4; filed Nov*

30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-2-5 Reasonable care

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 5. A practitioner shall exercise reasonable care and diligence in the treatment of patients based upon generally accepted scientific principles, methods, treatments, and current professional theory and practice. (*Medical Licensing Board of Indiana; 844 IAC 5-2-5; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-6 Degree basis for licensing

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 6. A practitioner shall not represent, advertise, state, or indicate the possession of any degree recognized as the basis for licensure to practice medicine or osteopathic medicine unless the practitioner is actually licensed on the basis of such degree in the state(s) in which he/she practices. (*Medical Licensing Board of Indiana; 844 IAC 5-2-6; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-7 Consultations; referrals

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 7. A practitioner shall make reasonable efforts to obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care. Further, the practitioner shall refer a patient to another practitioner in any case where the referring practitioner does not consider himself/herself qualified to treat the patient, and may refer the patient to another practitioner where the referring practitioner is unable to diagnose the illness or disease of the patient. (*Medical Licensing Board of Indiana; 844 IAC 5-2-7; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-8 Peer reviews

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 8. (a) A practitioner who has personal knowledge based upon a reasonable belief that another practitioner holding the same licenses has engaged in illegal, unlawful, incompetent, or fraudulent conduct in the practice of medicine or osteopathic medicine shall promptly report such conduct to a peer review or similar body, as defined in IC 34-4-12.6-1(c) [*IC 34-4 was repealed by P.L. 1-1998, SECTION 221, effective July 1, 1998.*], having jurisdiction over the offending practitioner and the matter. This provision does not prohibit a practitioner from promptly reporting said conduct directly to the medical licensing board. Further, a practitioner who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of medicine or osteopathic medicine shall promptly report such conduct to the medical licensing board.

(b) A practitioner who voluntarily submits himself/herself to, or is otherwise undergoing a course of, treatment for addiction, severe dependency upon alcohol or other drugs or controlled substances, or for psychiatric impairment, where such treatment is sponsored or supervised

by an impaired physicians' committee of a state, regional, or local organization of professional health care providers, or where such treatment is sponsored or supervised by an impaired physicians' committee of a hospital, shall be exempt from reporting to a peer review committee as set forth in subsection (a) or to the medical licensing board for so long as:

(1) the practitioner is complying with the course of treatment; and

(2) the practitioner is making satisfactory progress.

(c) If the practitioner fails to comply with, or is not benefitted by, the course of treatment, the practitioner-chief administrative officer, his designee, or any member of the impaired physicians' committee shall promptly report such facts and circumstances to the medical licensing board. This section shall not, in any manner whatsoever, directly or indirectly, be deemed or construed to prohibit, restrict, limit, or otherwise preclude the medical licensing board from taking such action as it deems appropriate or as may otherwise be provided by law. (*Medical Licensing Board of Indiana; 844 IAC 5-2-8; filed Nov 30, 1990, 4:15 p.m.: 14 IR 751; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-9 Fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 9. (a) Fees charged by a practitioner for his/her professional services shall be reasonable and shall reasonably compensate the practitioner only for services actually rendered.

(b) A practitioner shall not enter into agreement for, charge, or collect an illegal or clearly excessive fee.

(c) Factors to be considered in determining the reasonableness of a fee include, but are not limited to, the following:

(1) The difficulty and/or uniqueness of the services performed and the time, skill, and experience required.

(2) The fee customarily charged in the locality for similar practitioner services.

(3) The amount of the charges involved.

(4) The quality of performance.

(5) The nature and length of the professional relationship with the patient.

(6) The experience, reputation, and ability of the practitioner in performing the kind of services involved.

(*Medical Licensing Board of Indiana; 844 IAC 5-2-9; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-10 Fee division

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 10. A practitioner shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made; and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(*Medical Licensing Board of Indiana; 844 IAC 5-2-10; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-11 Referral fees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 11. A practitioner shall not pay, demand, or receive compensation for referral of a patient, except for a patient referral program operated by a medical society or association which is approved by the medical licensing board. (*Medical Licensing Board of Indiana; 844 IAC 5-2-11; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-12 Employees

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 12. A practitioner shall be responsible for the conduct of each and every person employed by the practitioner (whether such employee is a physician, nurse, physician's assistant, or other specific professional health care provider employed by the practitioner) for every action or failure to act by said employee or employees in the course of said employee's employment relationship with said practitioner, provided, however, that a practitioner shall not be responsible for the actions of persons he/she may employ whose employment by the practitioner does not relate directly to the practitioner's practice of medicine or of osteopathic medicine. (*Medical Licensing Board of Indiana; 844 IAC 5-2-12; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-13 Advertising

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 13. (a) A practitioner shall not, on behalf of himself/herself, a partner, associate, shareholder in a professional corporation, or any other practitioner or specific health care provider affiliated with the practitioner, use, or participate in the use of, any form of public communication containing a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(b) Subject to the requirements of subsection (a), and in order to facilitate the process of informed selection of a practitioner by the public, a practitioner may advertise services through the public media including, but not limited to, a telephone directory, physicians' or osteopaths' directory, newspaper or other periodical, radio or television, or through written communication not involving personal contact, provided that the advertisement is dignified and confines itself to the existence, scope, nature, and field of practice of the practitioner.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the practitioner, and a recording and transcript of the actual transmission shall be retained by the practitioner for a period of five (5) years from the last date of broadcast.

(d) If a practitioner advertises a fee for a service, treatment, consultation, examination, radiographic study, or other procedure, the practitioner must render that service or procedure for no more than the fee advertised.

(e) Unless otherwise specified in the advertisement, if a practitioner publishes or communicates any fee information in a publication that is published more frequently than one (1) time per month, the practitioner shall be bound by any representation made therein for a period of thirty (30) days after the publication date. If a practitioner publishes or communicates any fee information in a publication that is published once a month or less frequently, the practitioner shall be bound by any representation made therein until the publication of the succeeding issue. If a practitioner publishes or communicates any fee

information in a publication which has no fixed date for publication of a succeeding issue, the practitioner shall be bound by any representation made therein for one (1) year.

(f) Unless otherwise specified, if a practitioner broadcasts any fee information by radio, cable, or television, the practitioner shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) Except as otherwise specified in this article, a practitioner shall not contact or solicit individual members of the public personally or through an agent in order to offer services to such person or persons unless that individual initiated contact with the practitioner for the purpose of engaging that practitioner's professional services. (*Medical Licensing Board of Indiana; 844 IAC 5-2-13; filed Nov 30, 1990, 4:15 p.m.: 14 IR 752; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-14 Referrals

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 14. A practitioner may, whenever the practitioner believes it to be beneficial to the patient, send or refer a patient to a qualified specific professional health care provider for treatment or health care which falls within the specific professional health care provider's scope of practice. Prior to any such referral, however, the practitioner shall examine, and/or consult with, the patient to ensure that a condition exists in the patient which would be within the scope of practice of the specific professional health care provider to whom the patient is referred or sent. (*Medical Licensing Board of Indiana; 844 IAC 5-2-14; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; errata filed Feb 18, 1991, 3:55 p.m.: 14 IR 1457; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-15 Admitting patients

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 15. A practitioner shall not charge a separate and distinct fee for the incidental, administrative, nonmedical service of securing admission of a patient to a hospital or other medical or health care facility. (*Medical Licensing Board of Indiana; 844 IAC 5-2-15; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 5-2-16 Discontinuance of practice

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 16. (a) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon leaving or moving from a community, shall not sell, convey, or transfer for valuable consideration, remuneration, or for anything of value, patient records of that practitioner to any other practitioner.

(b) A practitioner, upon his/her retirement, or upon discontinuation of the practice of medicine or osteopathic medicine, or upon leaving or moving from a community, shall notify all of his/her active patients in writing, or by publication once a week for three (3) consecutive weeks in a newspaper of general circulation in the community, that he/she intends to discontinue his/her practice of medicine or osteopathic medicine in the community, and shall encourage his/her patients to seek the services of another practitioner, provided, however, that this section shall not apply to practitioners solely engaged in internship, residency, preceptorship, fellowship, teaching, or other

postgraduate medical education or training programs. The practitioner discontinuing his/her practice shall make reasonable arrangements with his/her active patients for the transfer of his/her records, or copies thereof, to the succeeding practitioner, or to a program conducted by a medical society or association approved by the medical licensing board.

(c) As used herein, "active patient" applies and refers to a person whom the practitioner has examined, treated, cared for, or otherwise consulted with during the two (2) year period prior to retirement, discontinuation of the practice of medicine or osteopathic medicine, or leaving or moving from a community.

(d) Nothing herein provided shall preclude, prohibit, or prevent a practitioner from conveying or transferring the practitioner's patient records to another practitioner, holding an unlimited license to practice medicine or osteopathic medicine, who is assuming a practice, provided that written notice is furnished to all patients as hereinbefore specified. *(Medical Licensing Board of Indiana; 844 IAC 5-2-16; filed Nov 30, 1990, 4:15 p.m.: 14 IR 753; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-17 Contingency fees prohibited

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 17. A practitioner shall not base his fee upon the uncertain outcome of a contingency, whether such contingency be the outcome of litigation or any other occurrence or condition which may or may not develop, occur, or happen. *(Medical Licensing Board of Indiana; 844 IAC 5-2-17; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-18 Liability to patients

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 18. A practitioner shall not attempt to exonerate himself from or limit his liability to a patient for his/her personal malpractice except that a practitioner may enter into agreements which contain informed, voluntary releases and/or waivers of liability in settlement of a claim made by a patient or by those responsible for a patient's care. *(Medical Licensing Board of Indiana; 844 IAC 5-2-18; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-19 Patient complaints

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 19. A practitioner shall not attempt to preclude, prohibit, or otherwise prevent the filing of a complaint against him/her by a patient or other practitioner for any alleged violation of this title or of any alleged violation of IC 25-22.5-1, or any other law. *(Medical Licensing Board of Indiana; 844 IAC 5-2-19; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-20 Schedule II controlled substances

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1; IC 35-48-2-6

Sec. 20. A physician shall not utilize, prescribe, order, dispense, administer, supply, sell, or give any amphetamine, sympathomimetic amine drug or compound designated as a Schedule II controlled substance pursuant to the provisions of IC 35-48-2-6 to any person for purposes of weight reduction or for control in the treatment of

obesity. *(Medical Licensing Board of Indiana; 844 IAC 5-2-20; filed Nov 30, 1990, 4:15 p.m.: 14 IR 754; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 5-2-21 Schedule III or IV controlled substances (Voided)

Sec. 21. (Voided by P.L.177-1997, SECTION 14, effective July 1, 1997.; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 5-2-22 Use of term, "board certified"

Authority: IC 25-22.5-2-7

Affected: IC 25-1-9; IC 25-22.5-1

Sec. 22. A practitioner shall not represent in any manner that he or she is "board certified" or use any similar words or phrase calculated to convey the same unless the practitioner states by which board he/she is certified and the specific field or area of certification. *(Medical Licensing Board of Indiana; 844 IAC 5-2-22; filed Nov 30, 1990, 4:15 p.m.: 14 IR 755; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

ARTICLE 7. REINSTATEMENT TO PRACTICE

Rule 1. General Provisions

844 IAC 7-1-1 Evidence for reinstatement

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 1. No person whose license to practice medicine or osteopathic medicine, midwifery, or whose license as a podiatrist, physical therapist, physical therapist assistant, or whose registration and approval as a physician's assistant, has been suspended or revoked shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the medical licensing board that:

(1) the person desires in good faith to obtain restoration of such license, registration or approval;

(2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;

(3) the person has not engaged in that practice for which that person was licensed, registered or approved, in this state or has attempted to do so from the date discipline was imposed;

(4) the person has complied fully with the terms, if any, of the order for suspension or revocation;

(5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;

(6) the person has a proper understanding of an attitude towards the standards that are imposed by statute or rule upon persons holding such license, registration or approval as had been suspended or revoked and the person can be reasonably expected to conduct himself/herself in conformity with such standards;

(7) the person can be safely recommended to the public and applicable professions as a person fit to be reinstated and is able to practice his/her profession with reasonable skill and safety to patients;

(8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;

(9) the person has successfully taken and completed such written examinations and tests as may be required by the medical licensing board, and has completed such professional training or education under a preceptorship as may be required.

(Medical Licensing Board of Indiana; 844 IAC 7-1-1; filed Apr 12, 1984, 8:28 am; 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 7-1-2 Petitions for reinstatement

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec 2. Any person whose license, registration or approval has been suspended or revoked may apply for reinstatement by filing with the medical licensing board a petition setting forth that the requirements of 844 IAC 7-1-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the medical licensing board, together with a filing fee of four hundred dollars (\$400).

Upon the filing of such petition and payment of the filing fee, the medical licensing board shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirements set forth in 844 IAC 7-1-1, and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or revocation or reinstating a license, registration or approval to the petitioner.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file ten (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the following form:

BEFORE THE MEDICAL LICENSING BOARD
IN THE MATTER OF:

Affidavit in Support of Motion to Proceed Without Prepayment of Fees
and Costs

I, _____, being first duly sworn, depose and say that I am the petitioner in the above-entitled cases; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to redress; and that the issues which I desire to present are the following:
(LIST ISSUES)

I further swear and affirm that the responses which I have made to the questions [sic.] and instructions below relating to my ability to pay the cost of prosecuting the case are true.

1. Are you presently employed?

a. If the answer is yes, state the amount of your salary or wages per month and give the name and address of your employer.

b. If the answer is no, state the date of your last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other source?

a. If the answer is yes, describe each source of income, and state the amount received from each during the past twelve months.

3. Do you own any cash or checking or savings account?

a. If the answer is yes, state the total value of the items owned.

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)?

a. If the answer is yes, describe the property and state its approximate value.

5. List the persons who are dependent upon you for support and state you [sic.] relationship to those persons.

I understand that a false statement or answer to any questions in this affidavit will subject me to penalties for perjury.

(SIGN NAME)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 19____.

The medical licensing board may conduct such investigations and hearings as it may deem appropriate and necessary in ruling upon motions requesting waiver of the prepayment of fees and costs. Although prepayment of fees and costs may be waived by the medical licensing board, the petitioner shall remain responsible for the payment of fees and costs which payment may be a condition of reinstatement. *(Medical Licensing Board of Indiana; 844 IAC 7-1-2; filed Apr 12, 1984, 8:28 am; 7 IR 1526; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 7-1-3 Duties of revoked licensees and registrants

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 3. In any case where a person's license, registration or approval has been revoked, said person shall:

(1) Promptly notify or cause to be notified by in the manner and method specified by the board, all patients then in the care of the licensee or registrant, or those persons responsible for the patient's care, of the revocation and of the licensee's or registrant's consequent inability to act for or on their behalf in the licensee's or registrant's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.

(2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status of the revocation accompanied by a list of all patients then in the care of said licensee or registrant.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure, registration or approval:

- (A) Indiana department of public welfare;
- (B) Social Security Administration;
- (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
- (D) drug enforcement administration;
- (E) Indiana hospital association;
- (F) Indiana state medical association;
- (G) Indiana pharmacists association;
- (H) American Medical Association;
- (I) American Osteopathic Association;
- (J) Federation of State Medical Boards of the United States, Inc.

(4) Make reasonable arrangements with said licensee's or registrant's active patients for the transfer of all patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license or registration revocation, the licensee or registrant shall file an affidavit with the medical licensing board showing compliance with the provisions of the revocation order and with 844 IAC 7 which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee or registrant is still licensed and/or registered.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(Medical Licensing Board of Indiana; 844 IAC 7-1-3; filed Apr 12, 1984, 8:28 am; 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 7-1-4 Duties of suspended licensees and registrants

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 4. In any case where a person's license or registration has been suspended, said person shall:

(1) Within thirty (30) days from the date of the order of suspension, file with the medical licensing board an affidavit showing that:

- (A) All active patients then under the licensee's or registrant's care have been notified in the manner and method specified by the board of the licensee's or registrant's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another licensee or registrant of good standing of their own choice.
- (B) all hospitals, medical and health care facilities where such licensee or registrant has privileges or staff status have been informed of the suspension order.
- (C) Reasonable arrangements were made for the transfer of patient records, radiographic studies, and test results, or copies thereof, to a succeeding licensee or registrant employed by the patient or those responsible for the patient's care.

(2) Proof of compliance with this section shall be a condition precedent to reinstatement.

(Medical Licensing Board of Indiana; 844 IAC 7-1-4; filed Apr 12, 1984, 8:28 am; 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)

844 IAC 7-1-5 Protection of patients' interests

Authority: IC 25-22.5-2-7; IC 25-22.5-6-2.1

Affected: IC 25-22.5; IC 25-27; IC 25-29; IC 25-33

Sec. 5. Whenever a person's license or registration has been revoked or suspended, and said person has not fully complied with the provisions of 844 IAC 7-1-3 and 844 IAC 7-1-4, or if said licensee or registrant has disappeared or died or is otherwise unable to comply with said sections, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic association or any county medical or osteopathic society to take such action as may be appropriate to protect the interest of that person's patients. *(Medical Licensing Board of Indiana; 844 IAC 7-1-5; filed Apr 12, 1984, 8:28 am; 7 IR 1528; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325)*

844 IAC 7-1-6 Surrendered licenses

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-6-2.1

Sec. 6. (a) No person who has voluntarily surrendered his license or permit to practice medicine or osteopathic medicine in this state, or who surrenders such license or permit while disciplinary proceedings are pending, with written approval of the medical licensing board, shall be eligible for reinstatement unless that person establishes in a written request and by clear and convincing evidence before the medical licensing board that:

(1) The person satisfies the requirements of IC 25-22.5-3-1.

(2) The person has not engaged in the practice for which the person was licensed in this state or has attempted to do so from the date of surrender of his/her license.

(3) The person can be safely recommended to the public and applicable professions as a person fit to be reinstated, and is able to practice his/her profession with reasonable skill and safety to patients.

(4) The person is not under any physical, mental or medical disability, including addiction to intoxicants or drugs, which precludes or substantially inhibits the person from safely engaging in the practice of medicine or osteopathic medicine.

(5) The person has not violated IC 25-22.5-6-2.1 prior to the surrender of licensure.

(6) The person, during the period in which licensure has been surrendered, has kept abreast of current professional theory and practice.

(b) As a condition precedent or subsequent to reinstatement of a surrendered license, the board may, in its discretion, require the person seeking reinstatement to:

(1) obtain a complete physical and/or psychiatric examination at the person's expense;

(2) participate in, and complete, courses of continuing medical education specified and approved by the board;

(3) pass an examination specified by the board;

(4) personally appear before board;

(5) perform or refrain from performing such acts as the board may deem appropriate.

(c) Any person whose license to practice medicine or osteopathic medicine has been surrendered may apply for reinstatement by filing with the medical licensing board ten (10) copies of a petition setting forth that the requirements of 844 IAC 7-1-6(a) have been satisfied or complied with, together with a nonrefundable filing fee of two hundred dollars (\$200).

Upon the filing as such petition and payment of the filing fee, the medical licensing board shall enter an order therein and, if reinstatement is denied and a request for hearing is filed within fifteen (15) days from the date of such denial, shall schedule a hearing. After the hearing the medical licensing board shall determine whether the petitioner has met the requirement set forth in 844 IAC 7-1-6(a), and shall determine whether, as a condition of reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or physical or psychiatric examinations should be imposed. The medical licensing board shall thereafter, upon satisfactory compliance with the requirements of 844 IAC 7-1-6 and of any and all disciplinary and corrective measures which may be imposed, enter an order denying or granting reinstatement, accompanied by any and all disciplinary or corrective measures imposed.

Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the medical licensing board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the medical licensing board. In no event will there be any refund or rebate of any part of the filing fee.

In the event that a person is unable to pay the filing fee or costs or to give security therefor, the person shall file the (10) copies of a verified motion requesting waiver of the prepayment of such fees and costs accompanied by an affidavit executed on the person's personal knowledge stating that such person is unable to pay such fees and costs or to give security therefor. The affidavit shall be in the form specified by 844 IAC 7-1-2.

(d) In any case where a person surrenders his/her license to practice medicine or osteopathic medicine, said person shall:

(1) Promptly notify or cause to be notified in the manner and method specified by the board, all patients then in the care of the licensee, or those persons responsible for the patient's care, of the surrender and of the licensee's consequent inability to act for or on their behalf in the licensee's professional capacity. Such notice shall advise all such patients to seek the services of another licensee in good standing of their own choice.

(2) Promptly notify or cause to be notified all hospitals, medical and health care facilities where such licensee has privileges or staff status of the surrender, accompanied by a list of all patients then in the care of said licensee.

(3) Notify in writing, by first class mail, the following organizations and governmental agencies of the surrender licensure:

- (A) Indiana Department of Public Welfare;
- (B) Social Security Administration;
- (C) the medical licensing board(s), or equivalent state agency, of each state in which the person is licensed, registered or approved;
- (D) Drug Enforcement Administration;
- (E) Indiana Hospital Association;
- (F) Indiana State Medical Association;
- (G) Indiana Pharmacists Association;
- (H) American Medical Association;

(I) American Osteopathic Association;

(J) Federation of State Medical Boards of the United States, Inc.

(K) Indiana Association of Osteopathic Physicians and Surgeons

(4) Make reasonable arrangements with said licensee's active patients for the transfer of all patient records, radiographic studies, and test results, or copies [sic.] thereof, to a succeeding licensee employed by the patient or by those responsible for the patient's care.

(5) Within thirty (30) days after the date of license surrender, the licensee shall file an affidavit with the medical licensing board showing compliance with the provisions of 844 IAC 7-1-6(d) which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the licensee is still licensed.

(6) Proof of compliance with this section shall be a condition precedent to any petition for reinstatement.

(e) The board may, in its discretion, impose any conditions it deems appropriate regarding the acceptance or surrender of any license to practice medicine or osteopathic medicine including, but not limited to, the following, or any combination thereof:

(1) periodic physical and/or psychiatric examination;

(2) participation in continuing medical education courses;

(3) periodic personal appearances before the board;

(4) surrender of permits for the issuance of prescriptions for controlled substances;

(5) the performance, or prohibition against performing, such acts as the board deems appropriate in the public interest or for purposes of rehabilitation or treatment, if cause therefor is established.

(f) Whenever a person's license has been surrendered, and said person has not fully complied with the provisions of 844 IAC 7-1-6(d), or if said licensee has disappeared or died or is otherwise unable to comply with said section, the medical licensing board shall request the health professions service bureau or any state medical or osteopathic society to take such actions as may be appropriate to protect the interests of that person's patients. (*Medical Licensing Board of Indiana; 844 IAC 7-1-6; filed May 3, 1985, 10:44 am; 8 IR 1157; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

844 IAC 7-1-7 Costs of disciplinary proceedings

Authority: IC 25-22.5-2-7

Affected: IC 25-22.5-3-1; IC 25-22.5-6-2.1

Sec. 7. Persons who have been subjected to disciplinary sanctions by the medical licensing board shall be responsible for the payment of the costs of such disciplinary proceedings including, but not limited to, costs for:

(1) court reporters;

(2) transcriptions;

(3) certifications, notarizations;

(4) photoduplication;

(5) witness attendance and mileage fees;

(6) postage for mailings required by law;

(7) expert witnesses;

(8) depositions.

(*Medical Licensing Board of Indiana; 844 IAC 7-1-7; filed May 3, 1985, 10:44 am; 8 IR 1159; readopted filed Nov 9, 2001, 3:16 p.m.: 25 IR 1325*)

